

103^D CONGRESS
2^D SESSION

H. R. 4120

To require the Federal Government to incarcerate, or to reimburse State and local governments for the cost of incarcerating, criminal aliens, and to expedite the deportation and exclusion of criminal aliens.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1994

Mr. POMBO introduced the following bill; which was referred jointly to the Committees on the Judiciary and Foreign Affairs

A BILL

To require the Federal Government to incarcerate, or to reimburse State and local governments for the cost of incarcerating, criminal aliens, and to expedite the deportation and exclusion of criminal aliens.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Alien Depor-
5 tation and Native Country Confinement Act of 1994”.

1 **SEC. 2. INCARCERATION OF OR PAYMENT FOR CRIMINAL**
2 **ALIENS BY THE FEDERAL GOVERNMENT.**

3 (a) DEFINITION.—In this section, “criminal alien
4 who has been convicted of a felony and is incarcerated in
5 a State or local correctional facility” means an alien
6 who—

7 (1)(A) is in the United States in violation of the
8 immigration laws; or

9 (B) is deportable or excludable under the Immi-
10 gration and Nationality Act (8 U.S.C. 1101 et seq.);
11 and

12 (2) has been convicted of a felony under State
13 or local law and incarcerated in a correctional facil-
14 ity of the State or a subdivision of the State.

15 (b) FEDERAL CUSTODY.—At the request of a State
16 or political subdivision of a State, the Attorney General
17 shall—

18 (1)(A) take custody of a criminal alien who has
19 been convicted of a felony and is incarcerated in a
20 State or local correctional facility; and

21 (B) provide for the imprisonment of the crimi-
22 nal alien in a Federal prison in accordance with the
23 sentence of the State court; or

24 (2) enter into a contractual arrangement with
25 the State or local government to compensate the

1 State or local government for incarcerating alien
2 criminals for the duration of their sentences.

3 **SEC. 3. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
4 **EXCLUSION.**

5 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
6 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
7 is amended by adding at the end the following new sub-
8 paragraph:

9 “(E) CONVICTED DEFINED.—In this para-
10 graph, the term ‘convicted’ means a judge or
11 jury has found the alien guilty or the alien has
12 entered a plea of guilty or nolo contendere,
13 whether or not the alien appeals therefrom.”.

14 (b) DEPORTATION OF CONVICTED ALIENS.—

15 (1) IMMEDIATE DEPORTATION.—Section 242(h)
16 of such Act (8 U.S.C. 1252(h)) is amended—

17 (A) by striking “(h) An alien” and insert-
18 ing “(h)(1) Subject to paragraph (2), an alien”;
19 and

20 (B) by adding at the end the following new
21 paragraph:

22 “(2) An alien sentenced to imprisonment may be de-
23 ported prior to the termination of such imprisonment by
24 the release of the alien from confinement, if the Service
25 petitions the appropriate court or other entity with author-

1 ity concerning the alien to release the alien into the
2 custody of the Service for execution of an order of
3 deportation.”.

4 (2) PROHIBITION OF REENTRY INTO THE
5 UNITED STATES.—Section 212(a)(2) of such Act (8
6 U.S.C. 1182(a)(2)) is amended—

7 (A) by redesignating subparagraph (F) as
8 subparagraph (G); and

9 (B) by inserting after subparagraph (E)
10 the following new subparagraph:

11 “(F) ALIENS DEPORTED BEFORE SERVING
12 MINIMUM PERIOD OF CONFINEMENT.—An alien
13 deported pursuant to section 242(h)(2) is ex-
14 cludable during the minimum period of confine-
15 ment to which the alien was sentenced.”.

16 (c) EXECUTION OF DEPORTATION ORDERS.—Section
17 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
18 ing at the end the following: “An order of deportation may
19 not be executed until all direct appeals relating to the con-
20 viction which is the basis of the deportation order have
21 been exhausted.”.

22 (d) NOTIFICATION REQUIREMENT.—The Attorney
23 General shall notify each alien incarcerated in a State or
24 Federal prison of any available option for voluntary depor-
25 tation and prisoner transfer where the alien would be in-

1 carcerated for the remainder of the sentence of confine-
2 ment in the country to which deported.

3 **SEC. 4. CONGRESSIONAL STATEMENT CONCERNING INCAR-**
4 **CERATION IN COUNTRY TO WHICH CRIMINAL**
5 **ALIENS ARE DEPORTED.**

6 (a) CONGRESSIONAL FINDINGS.—The Congress
7 makes the following findings:

8 (1) Aliens entering the United States without
9 the knowledge or permission of the Federal Govern-
10 ment have become a major economic and social
11 problem in many States.

12 (2) The number of undocumented aliens com-
13 mitting felony crimes has reached staggering propor-
14 tions in California and in other States.

15 (3) In 1988, 5,500 undocumented aliens were
16 incarcerated in California prisons; in 1994 there are
17 16,000.

18 (4) In 1993 incarcerated undocumented aliens
19 represented approximately 15 percent of the total
20 California State prison population.

21 (5) The cost of incarcerating each State pris-
22 oner in California ranges between \$15,000 to
23 \$30,000 and the cost to the taxpayers of California
24 for the incarceration of undocumented criminal
25 aliens in the State is approximately \$402,000,000.

1 (6) The State of California has spent over a bil-
2 lion dollars in the past 5 years to incarcerate un-
3 documented criminal aliens.

4 (7) The Immigration and Naturalization Serv-
5 ice (INS) estimates that the average cost to deport
6 an undocumented criminal alien is \$600.

7 (8) The United States has bilateral treaties
8 concerning prisoner transfers with several countries.
9 The treaties have strict criteria requiring that all
10 parties, the United States Department of Justice,
11 the United States Department of State, the foreign
12 government, and the prisoner, consent to the trans-
13 fer. The prisoner must voluntarily request such a
14 transfer.

15 (b) SENSE OF CONGRESS.—It is the sense of the
16 Congress that—

17 (1) the President should direct the Secretary of
18 State to enter into negotiations with other countries
19 in order to conclude bilateral or multilateral agree-
20 ments to provide for incarceration in the country to
21 which an alien is deported when an alien is deported
22 while subject to a term of imprisonment in the
23 United States;

24 (2) all existing agreements regarding prisoner
25 transfer should be renegotiated to remove the re-

1 requirement of prisoner approval and all other barriers
2 to prisoner transfer; and

3 (3) any prisoner transfer agreement should in-
4 clude the assurance that prisoners will complete the
5 full term of any sentence upon transfer to another
6 country.

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